

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

WARRIOR ENERGY
SERVICES CORPORATION,

PLAINTIFF

v.

Civil Action No. 3:09-cv-229-HTW-LRA

APEX PETROLEUM, INC.,

DEFENDANT

DEFAULT JUDGMENT

Before the court is the motion of the plaintiff, Warrior Energy Services Corporation, for default judgment brought pursuant to Rule 55(b) of the Federal Rules of Civil Procedure¹. Plaintiff asserts that on April 15, 2009, the defendant, Apex Petroleum, Inc. was served with a copy of a summons and complaint via personal service on one Danny Perry, the registered agent for Corporation Service Company, who is authorized to accept service of process on behalf of the defendant. On May 6,

¹Rule 55(b) provides that judgment by default may be entered as follows:

(1) By the Clerk. When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, the clerk upon request of the plaintiff and upon affidavit of the amount due shall enter judgment for that amount and costs against the defendant, if the defendant has been defaulted for failure to appear and is not an infant or incompetent person.

(2) By the Court. In all other cases the party entitled to a judgment by default shall apply to the court therefor; but no judgment by default shall be entered against an infant or incompetent person unless represented in the action by a general guardian, committee, conservator, or other such representative who has appeared therein. If the party against whom judgment by default is sought has appeared in the action, the party (or, if appearing by representative, the party's representative) shall be served with written notice of the application for judgment at least 3 days prior to the hearing on such application. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings or order such references as it deems necessary and proper and shall accord a right of trial by jury to the parties when and as required by any statute of the United States.

2009, the plaintiff moved for entry of default, the defendant having failed to plead, appear, or otherwise defend, and not an infant or an unrepresented incompetent person. The Clerk of the Court made an Entry of Default based on a sufficient application and supporting affidavit.

The plaintiff now asserts that it is entitled to a Judgment by Default in the principal amount of One Hundred Eleven Thousand Seven Hundred Thirteen and 08/100 Dollars (\$111,713.08). This amount is based upon the invoices for services rendered to the defendant. Inasmuch as the defendant has not responded as required by the applicable rules, this court hereby finds for the plaintiff in the amount asserted.

Next, the plaintiff requests to have interest at 0.05% per day, an amount based on 18% per year, from and after November 6, 2008. This request is denied. The Federal Courts impose interest in an amount consistent with the Federal Treasury constant maturities for the last week ending of the current month. As of September 4, 2009, the interest rate to be applied to judgments in this court was 0.15 percent per annum. The plaintiff may recalculate and make its request for interest accordingly.

Finally, the plaintiff seeks attorneys' fees of twenty percent (20%) of the total principal and interest due to date, together with all costs of this action. This request also must be denied. The plaintiff may resubmit its request for attorney fees in accordance with the Uniform Local Rules of this court.

SO ORDERED AND ADJUDGED this the 8th day of December, 2009.

s/ HENRY T. WINGATE
CHIEF UNITED STATES DISTRICT JUDGE

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